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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/823,877      | 03/29/2001  | Scott Wolinsky       | IT/01               | 7170             |

7590 10/29/2003

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| EXAMINER |
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JONES, SCOTT E

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| ART UNIT | PAPER NUMBER |
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3713

DATE MAILED: 10/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/823,877

Applicant(s)

WOLINSKY, SCOTT

Examiner

Scott E. Jones

Art Unit

3713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.


Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☒ The proposed drawing correction filed on 19 September 2003 is a) ☐ approved or b) ☒ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).

10. ☒ Other: See Continuation Sheet

  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700

Continuation of 5. does NOT place the application in condition for allowance because: The request for reconsideration has been entered and considered but does overcome the rejection. The substitute drawings have been received, however, the draftsman has objected to the drawings. Applicant does not believe the examiner has made a prima facie case of obviousness. However, the examiner respectfully disagrees. The standard is would it have been obvious to one having ordinary skill in the art at the time of Applicant's invention to use an identification code, such as a telephone number, to identify game players in a game. Perlman uses the player's phone number to identify the player, however, the phone number is not displayed on the player's screens for privacy reasons. Instead, Perlman displays a player's screen name, which is directly associated with the player's phone number. The examiner respectfully disagrees with Applicant's interpretation of a "conference call." A conference call does not preclude the use of a speaker phone to communicate with several people at the same time. Regarding Applicant's arguments to a wireless telephone, the examiner believes the arguments are spurious. Wireless telephone games were notoriously well-known at the time of Applicant's invention. Therefore, the examiner believes the claims are rendered obvious over the rejection to claims 1, 7-10, 16-19, 25-28, and 34-40 under 35 U.S.C. 103(a) as being unpatentable over Perlman (U.S. 5,558,339) and the rejection to claims 2-6, 11-15, 20-24, and 29-33 under 35 U.S.C. 103(a) as being unpatentable over Perlman (U.S. 5,558,339) in view of Teshima et al. (U.S. 5,273,288) and further in view of Golad (U.S. 6,231,441).

Continuation of 10. Other: Note the attached Notice of Draftsperson's Patent Drawing Review - PTO-948.

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